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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/927,972

Filing Date: August 10, 2001

Appellant(s): GRANDY ET AL.

David H. Tannenbaum
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 3/13/2009 appealing from the Office action mailed 10/23/2008.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings, which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

2002/0004729 - Zak et al. – 1-2002

2002/0170565 – Walker et al. – 11-2002

6,384,815 – Huang – 5-2002

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 56-77, 86-88 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zak et al. (US 2002/0004729) in view of Walker et al. (US 20020170565 A1).

As per claim 56, Zak et al. teach

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a system for capturing medical information, said system comprising: a database having pre-programmed screen presentations, each presentation containing information pertinent to a particular medical complaint – paragraphs 92-93; figs. 2-3, par. 76.

certain of said presentations having at least an HPI portion –figs. 3-4.

a screen presentation for allowing a user to identify a particular medical complaint – fig. 2.

wherein said system is operable for presenting to said user an ordered set of screen presentations; each said screen presentation of said ordered set of screen presentations containing multiple selectable information elements pertinent to an identified particular medical condition – figs. 3-5 (patient problem is abdominal flank pain – item 260; and related issues/elements are displayed in fig. 3.) However, Zak does not teach an ROS portion for a particular medical complaint. Walker et al. teach HPI, ROS, and PFSH elements appropriate to target diagnosis – par. 102, fig. 9a. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine Walker's teaching with Zak's teaching in order to allow efficient ways of gathering and representing medical data to help users.

As per claim 57, Zak et al. teach

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means for capturing medical information on a selected screen presentation by incorporating a state indicator on a plurality of pre-presented clinical items – figs. 2-3, including item 240.

As per claim 58, Zak et al. teach

means for capturing additional medical information associated with said plurality of pre-presented clinical items based upon an action taken by a user with respect to said pre-presented item – fig. 4 (pain is primary pain of crushing type and the complaint location(s) are body, chest.)

As per claim 59, Zak et al. teach

means for cueing the user that said additional medical information is available for selection, said cueing means associated with said pre-presented clinical item – figs. 5, 9 (more information relating to a complaint that such as seizures that users can select for answer.)

As per claim 60, Zak et al. teach

a portion having a pre-identified graphic of an anatomical area pertinent to said chief medical complaint – figs. 3-4.

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As per claim 61, Zak discloses the label chest or body next to the display body parts – figs. 3-4. Zak et al. do not seem teach wherein said one or more labels are selectable information elements pertinent to an identified particular medical condition. Walker teaches wherein said graphic comprises one or more labels overlaid on said anatomical area, wherein said one or more labels are selectable information elements pertinent to an identified particular medical condition – fig. 2, 11b; par. 40. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine Walker's teaching with Zak's teaching in order to allow efficient data gathering and storage.

As per claim 62, Zak et al. teach

a plurality of different presentations pertaining to a single respective medical complaint, wherein said different presentations are selected from the list of: history, exam, course, Dx/DI – fig. 4; pars. 19, 38.

As per claim 63, Zak et al. teach

exam presentations contain listings of pre-presented clinical items representing possible clinical exam findings pertinent to said particular medical complaint – pars. 40, 54-55, 79.

As per claim 64, Zak et al. teach

wherein said course presentations contain listings of pre-presented clinical items

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representing possible clinical findings pertinent to said particular medical complaint – pars. 78-79, 81, 86.

As per claim 65, Zak et al. teach

wherein said possible clinical findings within said course presentations are selected from: x-ray, laboratory, EKG, diagnostic procedure, procedure descriptions, therapeutic interventions, consultations, repeat examinations, admission notes – pars. 55, 76, 92.

As per claim 66, Zak et al. teach

wherein said Dx/DI presentations comprises listings of pre-presented clinical items representing possible, clinical impression findings, prescriptions, work excuse, discharge instructions, follow-up referrals, pertinent to said particular medical complaint – pars. 19, 70-71, 92; fig. 4.

As per claims 67-69, Zak et al. teach

generating a patient prescription, discharge instructions, work excuse based upon selections made within said Dx/DI presentation – pars. 91-92, fig. 6 (treatment, pt.meds, notes).

As per claim 70, Zak et al. teach

identifying to a computer controlled system a chief medical complaint of a patient – fig. 2.

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said system selecting a template based upon said identified chief medical complaint; template having multiple screen presentations, a plurality of said template presentations having pre-identified selectable data elements pertaining to said chief medical complaint – fig. 3;

capturing medical history information pertaining to said patient on a first screen presentation of said selected template – fig. 4.

capturing...medical complaints – pars. 37, 75.

As per claim 71, Zak et al. teach

capturing physical exam information pertaining to said patient on a second screen presentation of said selected template – fig. 3, exam.

As per claim 72, Zak et al. teach:

capturing medical information pertaining to a course of treatment of said patient on a third screen presentation of said selected template – fig. 9; page 62.

said third screen...chief medical complaint – figs. 2, 6, 9-12 show multiple screens are displayed relating to a chief medical complaint; par. 75.

As per claim 73, Zak et al. teach

Art Unit: 2159

capturing medical information pertaining to the diagnosis and disposition of said patient on a fourth screen presentation of said selected template – fig. 8; pars. 15, 19.

said four screen...chief medical complaint - figs. 2, 6, 9-11 show different screens are displayed relating to a chief medical complaint.

As per claim 74, Zak et al. teach

selecting one or more said pre-identified selectable data elements by marking said element with a state indicator – pars. 76, 91; par. 15.

As per claim 75, Zak et al. teach

adding additional medical information in a space adjacent to one or more of said pre-identified selectable data elements – pars. 15, 41, 75.

As per claim 76, Zak et al. teach

selecting said additional information...- fig. 9.

As per claim 77, Zak et al. teach

generating a report in a textual prose representation based on the information correlated ...- pars. 52-55. However, Zak does not disclose at length regarding reports. Walker et al. teach textual reporting - figs. 19a-b. THus, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine Zak's teaching with

Walker's teaching in order to generate textual reports for better communications to patients etc...

Claims 86-88 claim the same subject matter as of previous claims and are rejected based on the same ground of rejection.

Claims 78, 80-83 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zak et al. (US 2002/0004729) in view Huang (US 6384815).

As per claims 78, 83, Zak et al. teach

machine selection of a template based upon identification to said machine of a patient's chief medical complaint; said template having multiple screen presentations, a plurality of said presentations having pre-identified selectable data elements pertaining to said chief medical complaint – pars. 19, 37-40, 46; figs. 2-6, 9-11.

capturing by said machine a user's selection of said pre-identified selectable data elements, medical history information pertaining to said patient on a first selected screen presentation of said selected template, said first selected screen comprising a portion having a pre-identified graphic of an anatomical area pertinent to said chief medical complaint – paragraphs 92-93; figs. 2-4, par. 76.

However, Zak does not disclose circling or crossed out selections. Huang discloses text selections can be crossed out or encircled – col. 3, lines 15-50. Thus, it

would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of circling or crossing function on text/label selections to further highlight performing tasks for better display or communications with users.

As per claims 80-81, Zak disclose several screens in the selected templates with pre-identified selectable elements - pars. 19, 37-40, 46; figs. 2-6, 9-11.

As per claim 82, Zak et al. teach capturing in a computer system...Dx/DI – fig. 4; pars. 19, 38-50 (patient information: drug treatments, focus complaints...); fig. 12, each form 100 contains four basis areas for display.

Claims 79, 84-85 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zak et al. (US 2002/0004729) in view of Huang (US 6384815), and further in view of Walker et al. (US 20020170565 A1).

As per claim 79, Zak discloses the label chest or body next to the display body parts – figs. 3-4. Zak et al. and Huang do not seem teach wherein said one or more labels are selectable information elements pertinent to an identified particular medical condition. Walker teaches wherein said graphic comprises one or more labels overlaid on said anatomical area, wherein said one or more labels are selectable information elements pertinent to an identified particular medical condition – fig. 2, 11b; par. 40. Thus, it

would have been obvious to one of ordinary skill in the art at the time of the invention to combine Walker's teaching with Zak's and Huang's teachings in order to allow efficient data gathering and storage.

As per claims 84-85, Zak and Huang et al. do not teach automatically generating a clinical report based upon a correlated compilation...including additional data associated with said pre-identifiedWalker discloses automatically generating a clinical report based upon a correlated compilation...including additional data associated with said pre-identified ...- pars. 129-130, 137; figs. 13-18.

Response to Arguments

Applicant's arguments filed 7/7/08 have been fully considered but they are not persuasive. Regarding Applicants' argument that Zak fails to teach an ROS portion for a particular medical complaint. Examiner disagrees. Zak discloses focus on a complaint – pars. 19, 38-40; Zak seems not disclose the limitation ROS. Walker discloses ROS portion appropriate to target diagnosis – par. 102, fig. 9a. Regarding the argument ROS portion of Walker is not for a particular complaint. Examiner disagrees. Walker does teach features for a chief complaint comprising ROS – pars. 10, 102 (...specific template will determine the HPI, ROS,...appropriate to the target diagnostic specific template so the physician will select the germane clinical features of a target disease)

In response to applicant's argument that Walker is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention.

See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Walker discloses patient encounter electronic medical record system – the title; it saves physicians time by integrating specific templates and portions of information that based on a subset of the diseases... - pars. 101,102

Regarding the arguments that the reporting is insufficient. Examiner disagrees. Zak seems allow the generating and displaying of reports on specific patient complaints and exam findings - pars. 38, 52-56. Walker also discloses the generating and displaying of textual reports - figs. 12-19.

(10) Response to Argument

Argument : A. First ground of rejection, pages 6-12.

1. Claim 56: page 7, line 4, Appellant argues: "In Walker, multiple templates are generated and stored on a database, each template being for a specific medical diagnosis. Walker populates these templates with patient examination data (which could include ROS data) and history data. This data, however, has already been

obtained without use of the templates of Walker. See par. 95. Appellant notes that the screen presentations of claim 56 are part of a “system for capturing medical information”. This is as opposed to the cited teachings of Walker which are geared to creating templates for processing information that has already been captured.”

In response to the Appellants’ above argument, Examiner disagrees. Claim 56 first limitation is “a system for capturing medical information, said system comprising: a database having pre-programmed screen presentations, each presentation containing information pertinent to a particular medical complaint, certain of said presentations having at least an HPI portion, and an ROS portion for a particular medical complaint.”

(HPI: History of Present Illness; ROS: Review of Systems)

Zak's teachings was mainly cited for the limitation above. Zak discloses in figures 2 that a form/template allows a user to enter a patient primary problem which is “Abdominal Flank Pain”. Fig. 3's template with a History of Present Problem/Illness portion allows users to further entering and/or selecting more information correlating to the problem/complaint. Par. 84, for example, Zak discloses forms are pertinent to the particular patient complaint in which information can be obtained. However, Examiner combined Zak's teachings with Walker's teachings in order to show that in medical field and recording system, templates or presentations with ROS portion is not novel in the technological art.

Regarding the Appellant's argument that “this data, however, has already been obtained without use of the templates of Walker”, the statement seems not accurate.

Walker discloses methods and computer products for clinical information capture and management – paragraph 2; the cited par. 102 suggests “the physician who is creating the diagnostic specific template will determine the HPI, ROS, and PFSH elements appropriate to the target diagnostic specific template 912. In this step the physician will also select the germane clinical features of the target disease.” Therefore, a “pre-programmed screen presentations” or templates with the ROS portion is also not novel in the technological art.

Walker's paragraph 95 seems not show that patient examination data has already been obtained without use of the templates of Walker as argued by the Appellant. In contrast, it discloses “...selecting an anatomic feature for inspection 730. The specific anatomic feature is then refined to a more detailed view 732 and 734 which is appropriate to the diagnosis. The system of the present invention then presents the physician with a list of candidate diagnoses 736 from which the physician selects an appropriate diagnostic specific template 738. When the appropriate template is presented to the physician on, for example, a computer screen with a graphical user interface, the physician then verifies that the default values highlighted in the diagnostic specific template are appropriate for the particular patient's diagnosis and condition 742...When the values of the diagnostic specific template are completed in a way which is appropriate to the diagnosis for the particular patient being examined and treated, the physician completes the electronic medical record...A textual record or report may be generated after the clinical session is over”. Therefore, the physician is able to interact

with the computer screen, for example, selecting and/or entering answers including yes/no questions (par. 135 where users can enter data: "if the physician...prefers to modify a particular field...he may use the mouse device to navigate from the onset field to the injury field...select a non-default item such as impact instead of the default item fall...using an input device to input specific text...) Therefore, the users can select and enter patients' information, the templates are not there or are created just to process stored information but for capturing information as disclosed in paragraph 2.

Regarding the Appellant's argument on page 7 that "The asserted ROS portion of Walker is not "for a particular medical complaint" as required by the claim; rather it is for a probable diagnosis. See ¶ [0100]. The asserted templates of Walker cannot be construed as being part of a system for capturing medical condition "for a particular medical complaint" because all of the patient data that would be taken in response to a medical complaint is already obtained when the physician is about to make a diagnosis and use the templates of Walker...Appellant notes that it is well known that a "diagnosis" is the end product of a physician's work after analyzing a medical complaints and conducting an examination...Accordingly, the proposed combination fails to teach the above recited limitation of claim 56", Examiner disagrees.

As cited in paragraph 95 above, Walker discloses "...selecting an anatomic feature for inspection 730. The specific anatomic feature is then refined to a more detailed view 732 and 734 which is appropriate to the diagnosis". Therefore, the selected anatomic feature is refined into a more detailed view which is appropriated/correlated to the selected feature. Walker called these views, the

diagnosis templates. Even though he called those views as diagnosis templates, they are equivalent to the Appellant's desired templates that results in a selection being made. For example, Appellant discloses that in paragraph 32 that "As shown in Figure 8..." "Abdominal Pain" has been selected...Selecting the desired template results in the display of a chart as shown in Figure 9 for abdominal pain..." Therefore, after a selection is made, appropriate templates correlating to the selected feature which is appropriate or possible diagnosis views/templates would be displayed for the users to further diagnose the complaint/problem.

Regarding the Appellant's argument that "one with skill in the art would not look to combine these references because the proposed combination would not function in the manner asserted by Examiner. In this case, Zak et al. discloses "electronic data gathering for emergency medical services" - the title. Zak discloses all features as cited above except ROS portion. Examiner combined Zak's teaching and Walker's teaching in order to show that in the medical services field, information capturing regarding ROS portion is not novel in the technological art. Walker discloses computer systems, methods and products for clinical information capturing and management - paragraph 2; Walker also discloses in figure 2 where a patient/user can select a feature on the picture on the right to answer the question where the patient is hurt. As cited in paragraph 95 above, Walker discloses "...selecting an anatomic feature for inspection 730. The specific anatomic feature is then refined to a more detailed view 732 and 734 which is appropriate to the diagnosis". Therefore, the selected anatomic feature is refined into a more detailed view which is appropriated/correlated to the selected feature. Walker

called these views, the diagnosis templates. Even though he called those views as diagnosis templates, they are equivalent to the Appellant's desired templates that results in a selection being made. For example, Appellant discloses that in paragraph 32 that "As shown in Figure 8..."Abdominal Pain" has been selected...Selecting the desired template results in the display of a chart as shown in Figure 9 for abdominal pain..." Therefore, after a selection is made, appropriate templates correlating to the selected feature which is appropriate or possible diagnosis views/templates would be displayed for the users to further diagnose the complaint/problem. In addition, evidence of a suggestion, teaching, or motivation to combine prior art references may flow, inter alia, from the references themselves, the knowledge of one of ordinary skill in the art, or from the nature of the problem to be solved. See *In re Dembicczak*, 175 F.3d 994, 1000, 50 USPQ2d 1614, 1617 (Fed. Cir. 1999).

2. Claim 70:

Appellant argues that "the "exam" screen of Zak is not shown or described throughout the Zak reference. Appellant notes that there is never a screenshot where the exam screen is highlighted. Further there is no teaching in Zak regarding an exam screen, and particularly no teaching of such a screen being populated with elements pertaining to a chief medical complaint. As such, Zak does not teach an "exam" presentation "having pre-identified selectable data elements pertaining to said chief medical complaint" as required by claim 70".

In response to the Appellants' above argument, Examiner disagrees.

Claim 70 discloses "capturing physical exam information pertaining to said patient on a second screen presentation of said selected template"

Even though Appellant discloses that "...said system selecting a template based upon said identified chief medical complaint, said template having multiple screen presentations", the claim's limitations are broad because there is no limitation that specifies that these multiple screen presentations are displayed simultaneously or the first screen presentation and the second screen presentation are different screen presentations.

In addition, in figure 2, a user can identify or select a patient's chief/primary medical problem/complaint. As shown in figure 2: abdominal flank pain is added into the screen 260, there are other screen presentations on figure 2 that allow the user to enter further patient's information such as "Problem began/occurred", "History reported by", "Injury related" or "Activity onset". Par. 60 discloses "Problems - provides multiple forms for entry of details of the patient problem for which the emergency call was made. See Figs. 2-7 for problem forms 200a-d respectively". The cited figure 3 allows the patient's information be entered or selected not only at the Body GUI, item 205 (which is used to document additional patient complaints and exam findings obtained during the historical phrase of an EMS call) but also at the window "History of Present Problem". Par. 84, for example, Zak discloses forms are pertinent to the particular patient complaint in which information can be obtained.

The cited figure 4 also discloses the chest area picture is displayed with the primary pain is selected as crushing. In addition of these information being entered/selected, users can use the exam, vital forms for entering information. As Zak discloses "the EMT gathers information about the patient and the emergency problem, using the Exam form, the Vital form, the problem forms (figs 2-7) etc..." - par. 92; medically focused complaint- and exam-driven data entry forms (see figs. 5-7)" – par. 46. Thus, in the broadest interpretable meanings, Zak does disclose claim 70's limitations.

3. Claim 86:

Appellant argues that "Appellant agrees with Examiner's assessment that Zak does not contain sufficient teachings to reject this claim. Examiner relies on figs. 19a-b of Walker as teaching "textual reporting"...However, merely teaching textual reporting is insufficient to obviate the above recited limitation. Paragraph 140 of Walker makes clear that the reports of Walker are pre-generated from diagnostic specific templates. Thus, Walker does not teach generating a report by "correlating information corresponding to selections of pre-identified data elements." In other words, a report is pre-generated cannot be said to be generated in response to correlating selections of data elements pertaining to a chief medical complaint."

In response to the Appellants' above argument, Examiner disagrees. Claim 86's first limitation "a database having pre-programmed screen...said chief medical complaint" is

equivalent to claim 56's first limitation. Claim 86's last limitation "...generate a textual prose representation ...corresponding to selections of said pre-identified data elements" is basically equivalent to claim 77.

The cited paragraphs 52-55 disclose "...the EMT uses the invention ...to collect all patient and site data. While transporting the patient 1 to the hospital, the EMT 5 documents vital signs and physical exam findings, including data from diagnostic and monitoring equipment 3 by storing them in the memory of the invention 10. When the patient 2 is transported to an emergency department 20, the patient care report 15 is wirelessly transmitted to an emergency department laser printer, and the EMT shares patient data collected in the field with emergency department staff 25. After delivering the patient 1 to emergency department staff 25, the EMT 5 finalizes the report in the emergency department 20." As further study of Zak's teaching, Zak discloses in paragraph 92 that "...the invention retains all required information to the emergency call in its memory in an XML format, and transfers this information to the emergency department via either a printed report or an electronic transfer to the hospital's computer systems. The invention creates SQL to load/update ODBC-compliant databases, and produces ASCII text files as required by some receiving systems". Therefore, Zak does disclose generate a report corresponding to the patient's selected/identified problem/complaint. However, Zak does not disclose at length regarding the generated report, for example, shows a textual report. Thus, Examiner combined Zak's teaching with Walker's teaching in order to show generating a textual report is not novel in the technological art.

Walker discloses methods and computer products for clinical information capture and management – paragraph 2; Walker's paragraph 95 discloses "...selecting an anatomic feature for inspection 730. The specific anatomic feature is then refined to a more detailed view 732 and 734 which is appropriate to the diagnosis. The system of the present invention then presents the physician with a list of candidate diagnoses 736 from which the physician selects an appropriate diagnostic specific template 738. When the appropriate template is presented to the physician on, for example, a computer screen with a graphical user interface, the physician then verifies that the default values highlighted in the diagnostic specific template are appropriate for the particular patient's diagnosis and condition 742...When the values of the diagnostic specific template are completed in a way which is appropriate to the diagnosis for the particular patient being examined and treated, the physician completes the electronic medical record...A textual record or report may be generated after the clinical session is over". Therefore, the physician is able to interact with the computer screen, for example, selecting and/or entering answers including yes/no questions (par. 135 where users can enter data: "if the physician...prefers to modify a particular field...he may use the mouse device to navigate from the onset field to the injury field...select a non-default item such as impact instead of the default item fall...using an input device to input specific text...) Therefore, the users can select and enter patients' information, the templates are not there or are created just to process stored information but for capturing information as disclosed in Walker's paragraph 2. The cited figures 19a-b also disclose a textual prose report.

4. Claim 60: Appellant argues that “...as explicitly taught by Zak, the “body GUI” that is displayed is selected by a user “by simply touching the display of a particular body part...the EMT user can easily associate focal patient complaints and exam findings with a particular body region, and “zoom in” to document finer levels of detail...” Zak at par. 76. In other words, the user must identify and/or narrow down the area of the body GUI that is displayed. These extraneous steps in Zak slow functionality, which in an emergency setting, is undesirable”

In response to the Appellants’ above argument, Examiner disagrees.

Claim 60 discloses “wherein certain of said presentations comprise a portion having a pre-identified graphic of an anatomical area pertinent to said chief medical complaint.”

The cited figure 4 show complaint location, item 240, is chest and the body part including chest is displayed on the left, the pre-identified graphic of an anatomical area pertinent to the complaint area: chest. The claim limitation seems equivalent to the cited figure 4's teaching. In addition, Appellant's figure 8 displays that a user select abdominal pain, click ok, then figure 9 would show the abdominal pain area in the HPI portion. In Appellant's teaching, users must also identify the complaint.

5. Claim 61: Appellant argues that "Examiner cites Walker figs. 2 and 11b, ...This cannot be said to teach labels overlaid on said anatomical area."

In response to the Appellants' above argument, Examiner disagrees. Zak discloses in figure 3 a "body GUI" item 205 which is used to document additional patient complaints and exam findings obtained during the historical phrase of an EMS call; and in figure 4 a complaint location, item 240, is chest and the body part including chest is displayed on the left, the pre-identified graphic of an anatomical area pertinent to the complaint area: chest. However, Zak seems not disclose "one or more labels overlaid on said anatomical area, wherein said one ore more labels are selectable information elements".

The cited paragraph 40 of Walker discloses "Figs. 2-4 are depictions of conventional diagnostic graphical user interfaces...in these conventional systems the user typically displays a graphic image of the body or parts of the body and by using a pointing device, such as a mouse, can indicate the area of the body which is believed to be injured or part of the body in which the patient is experiencing discomfort. For instance, a patient with a leg injury will display the image of the leg on a computer screen and then further focus the diagnosis on a particular area of the leg where the patient is experiencing the most pain". Walker also discloses in figure 2, labels overlaid on said anatomical area, wherein said one ore more labels are selectable information elements. Therefore, it is not novel in the technological art to have one or more labels on a body's anatomical area for selection of complaints or to enter additional patient information.

6. Claim 63: Appellant argues that “there is no teaching in Zak that the exam form contains any pre-presented clinical items “pertinent to said particular medical complaint”...there is no teaching that a selected problem on the problem form functions to tailor the exam form (or any form other than the history of problem form in the problem form series shown in fig. 5) with items “pertinent to said particular medical complaint”.

In response to the Appellants’ above argument, Examiner disagrees. Claim 63 discloses “wherein said exam presentations contain listings of pre-presented clinical items representing possible clinical exam findings pertinent to said particular medical complaint.”

Zak’ s figure 2 displays a user can identify or select a patient’s chief/primary medical problem/complaint. As shown in figure 2: abdominal flank pain is added into the screen 260, there are other screen presentations on figure 2 that allow the user to enter further patient’s information such as “Problem began/occurred”, “History reported by”, “Injury related” or “Activity onset”. Par. 60 discloses "Problems - provides multiple forms for entry of details of the patient problem for which the emergency call was made. See Figs. 2-7 for problem forms 200a-d respectively". The cited figure 3 allows the patient’s information be entered or selected not only at the Body GUI, item 205 (which is used to document additional patient complaints and exam findings obtained

during the historical phrase of an EMS call) but also at the window "History of Present Problem".

The cited figure 4 also discloses the chest area picture is displayed with the primary pain is selected as crushing which is pertinent to a particular chest, item 240. In addition of these information being entered/selected, users can use the exam, vital forms for entering information. As Zak discloses "the EMT gathers information about the patient and the emergency problem, using the Exam form, the Vital form, the problem forms (figs 2-7) etc..." - par. 92; medically focused complaint- and exam-driven data entry forms (see figs. 5-7)" – par. 46. All forms and pre-identified items on figure 4 is pertinent to the complain area: chest. Thus, in the broadest interpretable meanings, Zak does disclose claim 63's limitations.

7. Claim 67-69: "Appellant fails to see any teachings relevant to generating prescriptions, discharge instructions or work excuse instructions in the cited paragraphs...These tabs are equally irrelevant to the claims. They do not indicate that selections are made in a Dx/DI presentation, nor do they indicate that anything is "generated" based on the contents of the tabs. In facts, the cited portions of Zak teach that these tabs are for gathering information upon arrival to an emergency scene. Accordingly, the rejection of claim 67-69 should be overturned."

In response to the Appellants' above argument, Examiner disagrees. Claims 67-69 disclose: generating a patient prescription, discharge, and work excuse instructions based upon selection made within said Dx/DI presentation.

In the specification, only in paragraph 27, Appellant discloses "The "Dx/DI" provides for the entry of clinical impression, prescriptions, work excuse, discharge instructions and the like. This section is generally used by the physician to complete a case."

Zak discloses in paragraph 92 that Pt. Meds are patient medications forms...Once the EMS team has decided on a course of treatment and begun to carry it out, the EMT documents the chosen treatments using the Treatment forms... (treatments and medications forms can be equivalent to Appellant's "patient prescription"); The Disposition form can be used when patients are released...(which is interpreted as equivalent to discharge information/instructions); Notes provide entries for general notes (in which patients' required/suggested rest periods can be created for different uses such as for patients to follow or for patients' use as work excutes.

8. Claim 57-59,61-62,64-66, 71-77, and 87-88: Appellant argues that these claims are either directly or indirectly from independent claims 56, 70, and 86, and thus inherit each and every limitation of their corresponding independent claims. As a result, these claims are allowable.

In response to the Appellants' above argument, Examiner disagrees for the reasons explained in the response listed above for these independent claims. The dependent claims also seem be disclosed by the cited prior art.

Argument : B. Second ground of rejection, pages 12-13, claims 78 and 80-83.

Regarding claims 78 and 80-83, Appellant argues that "Huang teaches a text editing/annotation tool...These teachings are irrelevant to the present application. The marking or annotating in Huang does not function to indicate positive selections of the pre-identified selectable data elements pertaining to a chief medical complaint...Both Zak and Walker teach the use of radio buttons for indicating selections, which is insufficient to teach the above recited limitation because checking a radio button is clearly not "encircling one or more textual labels..."

In response to the Appellants' above argument, Examiner disagrees. Zak discloses selections of pre-identified selectable data elements – fig. 3, complaint location is chest and primary pain is selected as crushing. However, Zak does not disclose "encircling" the selectable data element's label(s): primary pain and/or crushing. However, Examiner combine Zak's teaching with Huang's teaching only to show that in interacting with computer interface etc..., the use of "encircling" or "crossing out" textual labels is not novel in the technological art. Those are well known techniques that can be done to

textual labels as disclosed by Huang at col. 3, lines 15-50. Claims 80-83 depend on claim 78 and seem also not allowable over the cited prior art.

Argument : C. Third ground of rejection, page 13.

Regarding claims 79 and 84-85, Appellant argues that “claims 79 and 84-85 depend either directly or indirectly from independent claim 78...the combination of Zak and Huang fails to teach every limitation of claim 78...As a result, claims 79 and 84-85 are allowable...”

In response to the Appellants’ above argument, Examiner disagrees. As cited above, the applied prior art seems disclose claim 78. The teachings of Zak, Walker, and Huang also do disclose claims 84-85's limitations.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner’s answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/LINH BLACK/

Examiner, Art Unit 2159

Conferees:

James Trujillo

/James Trujillo/

Supervisory Patent Examiner, Art Unit 2159

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